

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARC FISHMAN, INDIVIDUALLY, and on behalf of all
others similarly situated

Plaintiff,

v.

Office of Court Administration New York State Courts,
Judge Michelle I. Schauer in her administrative and official
capacity, Nancy J. Barry, District Executive 9th District NY
Courts in her administrative and official capacity, Dan Weisz,
Professional Director In his administrative and official capacity
New York Courts, Michelle D'ambrosio in her administrative
and official capacity, Magistrate Carol Jordan in Her
administrative and official capacity Capacity, Judge Gordon
Oliver in her Administrative and Official Capacity and Judge
Kathy Davidson, Chief Administrative Judge 9th circuit and
former Chief Judge of the Westchester Family Court in her
administrative and official capacity and the New York State
Unified Court System, and Judge Hal Greenwald, in his
administrative and official capacity Judge Alan Scheinkman
in his administrative and official capacity as Chief
Administrative Judge of the 9th Circuit courts,

Defendants

NOTICE OF MOTION
TO DISMISS THE
SECOND AMENDED
COMPLAINT


18-CV-00282 (KMK)

PLEASE TAKE NOTICE that, upon the annexed Declaration of Lee Alan Adlerstein,
dated May 24, 2019 with annexed exhibits, the accompanying memorandum of law, and all prior
pleadings and submissions, the undersigned, on behalf of defendants Nancy Barry, Dan Weitz
and Office of Court Administration ("OCA"), will move this Court, at the United States
Courthouse, 500 Pearl Street, New York, New York, upon such date and time as may be directed
by the Court, for an order, pursuant to Federal Rules of Civil Procedure Rule 12(b)(6),
dismissing the second amended complaint, on the ground that it fails to state a claim, and for
such other and further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Order of the Court dated April 4, 2019, plaintiff's opposition to this motion shall be filed on or before June 24, 2019, and defendants' reply papers shall be filed on or before July 15, 2019

Dated: New York, New York
May 24, 2019

JOHN W. McCONNELL
Attorney for Defendants Barry, Weitz and
OCA
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By: 
Lee Alan Adlerstein
Deputy Counsel

TO: MARC FISHMAN
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